

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

INDIANA LOW INCOME AND
ELDERLY HOUSING DEVELOPMENT
CORPORATION,

Plaintiff,

v.

ROGER DUVAL,

Defendant.

CASE NO. C14-5222 BHS

ORDER DISMISSING
COMPLAINT

This matter comes before the Court on review of Indiana Low Income and Elderly Housing Development Corporation's ("Plaintiff") complaint. Dkt. 1.

Plaintiff alleges that Defendant Roger Duval, an Indiana State judge, abused his power when he signed a divorce decree. *Id.*

A federal court may dismiss *sua sponte* pursuant to Fed. R. Civ. P. 12(b)(6) when it is clear that the plaintiff has not stated a claim upon which relief may be granted. *See Omar v. Sea Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) ("A trial court may dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6) Such a dismissal may be made without notice where the claimant cannot possibly win relief."). *See also Mallard*

1 *v. United States Dist. Court*, 490 U.S. 296, 307 (1989) (there is little doubt a federal court
2 would have the power to dismiss frivolous complaint *sua sponte*, even in absence of an
3 express statutory provision). A complaint is frivolous when it has no arguable basis in
4 law or fact. *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

5 In this case, Plaintiff's complaint is frivolous because it has no arguable basis in
6 law or fact. Not only does the Court lack jurisdiction to hear a claim against an Indiana
7 State judge acting in his official capacity, but the judge is also entitled to absolute judicial
8 immunity while acting in his official capacity. Therefore, the Court **DISMISSES**
9 Plaintiff's complaint.

10 **IT IS SO ORDERED.**

11 Dated this 27th day of March, 2014.

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14 BENJAMIN H. SETTLE
15 United States District Judge
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